

Item- 25. 06-08-2025

sg Ct. 16

**FA 87 of 2024
CAN 1 of 2023
CAN 2 of 2023**

Devasree Das @ Biswas
Versus
Soumya Kanti Biswas

Mr. Subhash Chandra Sarkar
...for the appellant
Mr. Ankit Agarwala
Mr. Alotriya Mukherjee
Mr. Arpita Paul Biswas
...for the respondent

1. In view of the order passed by the Hon'ble Supreme Court in SLP(C) Nos. 6280-6281/2025 on 2nd May, 2025 by directing the Additional District Judge, Hooghly to hear the application under Order IX Rule 13 of the CPC being Misc. Case No. 23 of 2022 and the said application for setting aside of the ex parte decree is required to be decided on merits.
2. The present appeal is on the self-same grounds on which the ex parte decree was passed without challenging the merits of the order. This appeal, for all intentions and purposes, has now become infructuous.
3. We find that there is a delay of 353 days in preferring the instant appeal. In view of the order of the Hon'ble Supreme Court in SLP(C) Nos. 6280-6281/2025, we condone the delay.
4. We are of the view that the grounds taken in this appeal are the self-same grounds on which now the learned Additional District Judge is required to hear the application under Order IX Rule 13 CPC and having

regard to the fact that the Hon'ble Supreme Court has directed the learned Additional District Judge to hear out the said application, the instant appeal and the connected applications are disposed of in terms of the said order.

There shall be no order as to costs.

5. The order of the Hon'ble Supreme Court is taken on record.
6. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Soumen Sen, J.)

(Apurba Sinha Ray, J.)